



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,499	04/09/2004	James D. Webb	P0011232.00/LG10126	1416
27581	7590	11/10/2010		
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MINNEAPOLIS, MN 55432-9924			EXAMINER COBANOGLU, DILEK B	
			ART UNIT 3626	PAPER NUMBER
			NOTIFICATION DATE 11/10/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

rs.docketingus@medtronic.com
sso@cardinal-ip.com



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/821,499
Filing Date: April 09, 2004
Appellant(s): WEBB ET AL.

Jason D. Kelly
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/16/2010 appealing from the Office action mailed 05/13/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1 and 4-20.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,480,745	NELSON et al.	11-2002
6,385,589	TRUSHEIM et al.	5-2002

U.S. Patent Publication No. 2002/0046239 A1; Stawikowski et al.; April 18, 2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. (hereinafter Nelson) (U.S. Patent No. 6,480,745 B2), Stawikowski et al. (hereinafter Stawikowski) (U.S. Patent Publication No. 2002/0046239 A1) and further in view of Trusheim et al. (hereinafter Trusheim) (U.S. Patent No. 6,385,589 B1).

Claim 1 recites a system for exchanging medical data, the data exchange system comprising:

- i. means for acquiring medical data (Nelson; col. 5, lines 14-31);
- ii. means for handling medical data wherein medical data may be stored, analyzed, or displayed (Nelson; col. 7, lines 21-39);
- iii. one or more devices configured to provide a plurality of web services for performing a data exchange function between the means for acquiring medical data and the means for handling medical data, wherein one of the web services is a translation web service having an input method configured to receive medical data in a first format and configured to return the medical data in a plurality of output formats, wherein translation web services is further configured to receive a request for one of the plurality of output formats from invoking application, and the output method is configured to return the medical data to the invoking application in the requested output format.

(1) Nelson fails to expressly teach one or more devices configured to provide a plurality of web services for performing a data exchange function between the means for acquiring data and the means for handling data. However, this feature is well known in the art, as evidenced by Stawikowski.

In particular, Stawikowski discloses one or more devices configured to provide a plurality of web services for performing a data exchange function between the means for acquiring data and the means for handling data (Stawikowski; abstract, paragraphs: 0001-0002, 0004-0007).

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Stawikowski with the motivation of to be able to exchange data directly on an IP network (Stawikowski; paragraph: 0006).

(2) Nelson and Stawikowski fail to expressly teach “a translation web service having an input method configured to receive medical data in a first format and configured to return the medical data in a plurality of output formats, wherein translation web services is further configured to receive a request for one of the plurality of output formats from invoking application, and the output method is configured to return the medical data to the invoking application in the requested output format”. However, this feature is well known in the art, as evidenced by Trusheim.

In particular, Trusheim discloses this feature in col. 8, lines 1-15, col. 11, line 25 to col. 12, line 11, fig. 3. Also, in col. 9, lines 1-23 as explained above in the "response to arguments section".

It would have been obvious to one having ordinary skill in the art at the time of the invention to include the aforementioned limitation as disclosed by Trusheim with the motivation of translation data files into a common format (Trusheim; col. 8, lines 1-15).

Claim 4 recites the system of claim 1 and Stawikowski discloses the plurality of web services further includes an analysis web service (Stawikowski; paragraph: 0001-0002, 0004-0005, 0006).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

Claim 5 recites the system of claim 4, Stawikowski discloses the analysis web service (Stawikowski; paragraph: 0001-0002, 0004-0005, 0006) and Nelson discloses an analysis method for performing a requested data analysis function on the specified data and returning the analysis results to an invoking application (Nelson; col. 7, lines 7-21, col. 11, lines 11-45).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

Claim 6 recites the system of claim 1, Stawikowski discloses the plurality of web services further includes a storage web service (Stawikowski; paragraph: 0001-0002, 0004-0005, 0006).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

Claim 7 recites the system of claim 6, Stawikowski discloses a storage web service (Stawikowski; paragraph: 0001-0002, 0004-0005, 0006) and Nelson discloses a method for writing data to a data storage system (Nelson; col. 10, line 59 to col. 11, line 10).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

Claim 8 recites the system of claim 6, Stawikowski discloses a storage web service (Stawikowski; paragraph: 0001-0002, 0004-0005, 0006) and Nelson discloses a method for retrieving data from a data storage system (Nelson; col. 10, line 59 to col. 11, line 10).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

Claim 9 recites the system of claims 7 or 8, wherein the data storage system is any of a relational database system; a file system; an XML file system, or a medical device (Nelson; col. 10, line 59 to col. 11, line 10).

Claim 10 recites the system of claim 1 wherein the plurality of web services further includes a multifunction web service (Stawikowski; paragraph: 0001-0002, 0004-0005, 0006).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

Claim 11 recites the system of claim 10 wherein the multifunction web service invokes any of a translation web service, an analysis web service, and a storage web service (Stawikowski; paragraph: 0001-0002, 0004-0005, 0006).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

Claim 12 recites the system of claim 11 wherein the multifunction web service is a data log service for informing a first data storage system of a new data set entered into a second data storage system (Stawikowski; paragraph: 0031, 0036).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

Claim 13 recites the system of claim 12 wherein a new data set comprises a record of a monitoring session performed by a medical device (Nelson; abstract, col. 10, line 59 to col. 11, line 10).

Claim 14 recites the system of claim 11 wherein the multifunction web service is a session retrieval service (Stawikowski; paragraph: 0031, 0036) and for retrieving monitoring session data recorded by a medical device and stored in a data storage system (Nelson; abstract, col. 10, line 59 to col. 11, line 10).

The obviousness of modifying the teaching of Nelson to include the plurality of web services (as taught by Stawikowski) is as addressed above in the rejection of claim 1 and incorporated herein.

Claim 16 recites the system of claim 1 wherein the means for acquiring medical data is an external medical device having telemetric communication with an implantable medical device for receiving data from the implantable medical device and storing the data (Nelson; abstract, col. 10, line 59 to col. 11, line 10).

Claim 17 recites the system of claim 1 wherein the means for acquiring medical data is an external monitoring or therapy delivery device capable of acquiring and storing medical data (Nelson; abstract, col. 5, line 66 to col. 6, line 34).

Claim 18 recites the system of claim 1 wherein the means for acquiring medical data is an implantable medical device (Nelson; abstract, col. 5, line 66 to col. 6, line 34).

Claim 19 repeats the same limitations as claim 1, and is therefore rejected for the same reasons given above for system claim 1 and incorporated herein.

Claim 20 recites “the medical device, wherein the medical device is configured to store medical data and transfer the data via a communication connection (Nelson; abstract, col. 5, line 66 to col. 6, line 34 and figure 2); means for electronically storing data in the remote data handling system and for receiving data from the medical device via the communication connection (Nelson; abstract, col. 5, lines 14-31, col. 7, lines 21-39); ...” The rest of the claim repeats the same limitations of claim 1, therefore are rejected for the same reasons given above and incorporated herein.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. (hereinafter Nelson) (U.S. Patent No. 6,480,745 B2), Stawikowski et al. (hereinafter Stawikowski) (U.S. Patent Publication No. 2002/0046239 A1), Trusheim et al. (hereinafter Trusheim) (U.S. Patent No. 6,385,589 B1) and further in view of Official Notice as evidenced by Walter et al. (hereinafter Walter) (U.S. Patent Publication No. 2003/0208381 A1).

Claim 15 recites the system of claim 11 wherein the multifunction web service is an enrollment web service for registering a patient or medical device

record newly enrolled in a first data storage system into a second data storage system.

Nelson does not explicitly disclose “an enrollment web service for registering a patient or medical device”.

However, the Examiner takes official notice that it was well known in the information network arts to registering a patient and/or medical device in a web service. For instance, Walter teaches “enrolling patient on a web server” in abstract, par. 0021, 0023-0024. The motivation would have been to obtain and provide information about the patient and/or the medical device securely and more efficiently. (e.g. “generating and displaying the user's PHP-Personal Health Portal web page on the patient interface, and managing online communication” Walter; par. 0023-0024).

(10) Response to Arguments

Argument A:

Applicant argues that: Trusheim does not teach “the translation web service having an input method configured to receive medical data in a first format, and an output method configured to return the medical data in a plurality of output formats” Examiner respectfully submits that Trusheim teaches “a translator, where source data files may be transferred to translator via the internet,...the translator ... receives a data file having a first format and translates the data file into an output file having a second

format. And maps used by the translation program to translate data files from the first format to the second format.” (In col. 8, lines 1-15). Trusheim continues “the present invention can be used in conjunction with any system for passing data among various applications” in col. 8, lines 65-67 and “Bus adapter 35a is provided to integrate translator 31 and translated data files 32 with information bus 34...Bus adapter 35a and rendezvous daemon 36 may also work together to subscribe to messages on information bus 34, and to pass these messages through translator 31 for storage in **source data files 30 in an appropriate legacy data format**” and in col. 9, lines 1-23.

Argument B:

Applicant traverses Examiner’s reliance on Official Notice for the rejection of claim 15 and requests Examiner to cite a reference demonstrating that it is well known in the information network arts to “register a patient and/or medical device in a web service”. Examiner respectfully submits that following references, which are also listed on the form “PTO-892 Notice of References Cited”, teaches this feature:

Blumenfeld (US 2003/0191664 A1): Online interactive evaluation of research performance,

Knowlton (US 2004/0172291 A1): System and methods for medical services and transactions,

Thomas et al. (US 2004/0015337 A1): Systems and methods for predicting disease behavior,

Riff et al. (US 2002/0082480 A1): Medical device systems implemented network scheme for remote patient management,

Hinton et al. (6,993,596 B2): System and method for user enrollment in an e-community,

Walter et al. (US 2003/0208381 A1): Patient health record access system,

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Dilek B Cobanoglu/

Examiner, Art Unit 3626

Application: 10/821,499

Paper No. 20101028

Art Unit: 3626

Page 14

Conferees:

Gerald J. O'Connor /GJOC/
Supervisory Patent Examiner
Group Art Unit 3686

Vincent Millin /vm/

Appeals Practice Specialist

Attachment(s):

PTO-892 - Notice of References Cited